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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,395	01/23/2004	Jean Challenger	23-0336	8992

40158 7590 07/01/2004

LEONARD & PROEHL, PROF. L.L.C.  
3500 SOUTH FIRST AVENUE CIRCLE  
SUITE 250  
SIOUX FALLS, SD 57105

EXAMINER

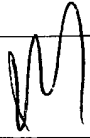
LEUNG, RICHARD L

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/764,395	<b>Applicant(s)</b> CHALLENGER, JEAN 	
	<b>Examiner</b> Richard L Leung	<b>Art Unit</b> 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

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## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 5. Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Bazemore et al. Bazemore et al. disclose a food serving container comprising an exterior bowl member 16 for being positioned on a support surface, a cooling member, water, selectively positioned against an interior surface of said exterior bowl member

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16, said cooling member being adapted for being frozen, and an interior bowl member 12 being selectively coupled to said exterior bowl member 16 such that said cooling member is positioned between said interior bowl member 12 and said external bowl member 16 when said cooling member is positioned against said external bowl member 16 and said interior bowl member 12 is coupled to said exterior bowl member 16. Said interior bowl member 12 is substantially concave and adapted for receiving food articles, and said cooling member is adapted for cooling the food articles in said interior bowl member 12 to inhibit the spoiling of food articles placed in said interior bowl member 12, as required by claim 1 and all associated dependent claims. Bazemore et al. also disclose a lid member 14 being selectively coupled to said interior bowl member 12, said lid member 14 being positioned opposite said exterior bowl member 16, said lid member 14 being adapted for maintaining positioning of said food articles in said interior bowl member 12 to prevent said food articles from spilling when said lid member 14 is coupled to said interior bowl member 12, as recited by claim 8. Said lid member 14 includes a hook portion 40 extending downwardly from a perimeter edge of said lid member 14, said hook portion selectively extending over a peripheral edge 20 of said interior bowl member 12 to secure said lid member 14 to said interior bowl member 12, as required by claim 9. Said lid member 14 has an aperture, when covers 44 or 46 are raised, such that said food articles may be retrieved from said interior bowl member 12 while said lid member 14 is coupled to said interior bowl member 12, as required by claim 10. There is further disclosed a cover assembly 44 and 46 coupled to said lid member 14, said cover assembly 44 and 46 being selectively positioned over said

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aperture of said lid member 14 such that said cover assembly is adapted for selectively limiting the access to said food articles in said interior bowl member 12 when said cover assembly 44 and 46 is positioned over said aperture, as required by claim 11.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bazemore et al. in view of Devlin. Bazemore et al. disclose a food serving container comprised of an exterior bowl member 16, an interior bowl member 12, and a cooling member located in between said bowl members 16 and 12 as already described above in regards with claim 1. Bazemore et al. fail to disclose an exterior bowl member containing an interior space for insulating said cooling member, said interior space containing an insulating fluid, and said insulating fluid being substantially an inert gas as required by said claims 2-4. Devlin teaches a similar serving container with an interior bowl member, inner cup 12, and external bowl member, outer receptacle 14, and a cooling member, liquid refrigerant 18, located there between. Said external bowl member 14 taught by Devlin further includes a peripheral wall 36 that defines an insulating interior space 42 in which is an insulating fluid, the insulating fluid being an inert gas, specifically air as described in column 2, line 31. It would have been obvious to one of ordinary skill in the art to modify the container disclosed by Bazemore et al. to

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include an external bowl member having an insulating interior space as taught by Devlin in order to insulate the enclosed cooling member and prevent heat transfer with the ambient environment, thus allowing the cooling member to stay cold longer.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bazemore et al in view of Slaughter. Bazemore et al. disclose a food serving container comprised of an exterior bowl member 16, an interior bowl member 12, and a cooling member located in between said bowl members 16 and 12 as already described above in regards with claim 1. Bazemore et al. further disclose that said external bowl member 16 includes a lip member 30 extending from a top edge of said external bowl member 16, said lip member 30 being received by an indentation 32 located on the periphery of said interior bowl member 12 so as to secure said interior bowl member 12 to said exterior bowl member 16. Bazemore et al. fail to disclose that said lip member extends inwardly from said exterior bowl member, as required by claim 5. Slaughter teaches a related container with an external bowl member 11, an internal bowl member 10, and a gelatinous cooling member 30 located there between. Slaughter teaches that said external bowl member 11 has a lip member 21 that extends inwardly from a top edge of said external bowl member 11 that is received by an indentation defined by 22 and 23 located on a peripheral edge of said internal bowl member 10 to selectively secure said interior bowl member 10 to said external bowl member 11. It would have been obvious to one of ordinary skill in the art to modify the lip member disclosed by Bazemore et al. to extend inwardly as taught by Slaughter in order to provide an alternative means of securing said internal and external bowl members.

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7. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bazemore et al. in view of Spitler. Bazemore et al. disclose a food serving container comprised of an exterior bowl member 16, an interior bowl member 12, and a cooling member located in between said bowl members 16 and 12 as already described above in regards with claim 1. Bazemore et al. do not disclose that said cooling member is comprised of a perimeter wall that defines a plurality of compartments, including wall compartments arranged radially around a base compartment, each containing a gelatinous compound adapted for freezing, as required by said claims. Spitler teaches a flexible thermal wrap that is used as a cooling member in a cooling jacket consisting of a perimeter wall that defines a plurality of compartments, including wall compartments 60 radially positioned around a base compartment 60B, each compartment containing a chemical refrigerant, that may be a gelatinous compound, adapted for being frozen and used for chilling. It would have been obvious to one of ordinary skill in the art to modify the container disclosed by Bazemore et al. to include a cooling member as taught by Spitler such that the walls and base of said cooling member are nested against the walls and base of said exterior bowl member respectively, as indicated by said claims, so that there is the added convenience in having an easily removable, self-contained cooling member.

8. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bazemore et al. in view of Young. Bazemore et al. disclose a food serving container comprised of an exterior bowl member 16, an interior bowl member 12, a cooling member located in between said bowl members 16 and 12, and a lid 14 with an

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aperture and cover assembly 44 and 46, said lid 14 being coupled to said interior bowl member 12, as already described above in regards with claims 1 and 8-11. Bazemore et al. do not disclose a cover assembly comprising of nested hemispherical shaped nested dome and shell members as required by claims 12 and 13. Young teaches a lid to a container that has an aperture and a cover assembly comprising a dome member 6 and a shell member 8 being coupled to said lid member such that said dome member 6 is positioned over a portion of said aperture of said lid member, said shell member 8 being pivotally coupled to said lid member such that said shell member 8 is for selectively covering the portion of said serving aperture not covered by said dome member 6, said shell member 8 being nested with said dome member 6 to permit access to said serving aperture when said shell member 8 is pivoted with respect to said lid member. Said dome member 6 and said shell member 8 are substantially hemispherical shaped, said shell member 8 comprising a radius less than the radius of said dome member 6 such that said shell member 8 pivots under said dome member 6 when said shell member 8 is pivoted with respect to said lid member. It would have been obvious to one of ordinary skill in the art to modify the lid member disclosed by Bazemore et al. to include the cover assembly taught by Young in order to provide an alternative means for closing the aperture in said lid.

9. Claims 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bazemore et al. in view of Devlin, Slaughter, and Spitler. Bazemore et al. disclose a food serving container comprising an exterior bowl member 16 for being positioned on a support surface, a cooling member selectively positioned against an interior surface of



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said exterior bowl member 16, said cooling member consisting of water being adapted for being frozen, and an interior bowl member 12 being selectively coupled to said exterior bowl member 16 such that said cooling member is positioned between said interior bowl member 12 and said external bowl member 16 when said cooling member is positioned against said external bowl member 16 and said interior bowl member 12 is coupled to said exterior bowl member 16. Said interior bowl member 12 is substantially concave and adapted for receiving food articles, and said cooling member is adapted for cooling the food articles in said interior bowl member 12 to inhibit the spoiling of food articles placed in said interior bowl member 12. Bazemore et al. additionally disclose that said external bowl member 16 includes a lip member 30 extending from a top edge of said external bowl member 16, said lip member 30 being received by an indentation 32 located on the periphery of said interior bowl member 12 so as to secure said interior bowl member 12 to said exterior bowl member 16. Bazemore et al. also disclose a lid member 14 being selectively coupled to said interior bowl member 12, said lid member 14 being positioned opposite said exterior bowl member 16, said lid member 14 being adapted for maintaining positioning of said food articles in said interior bowl member 12 to prevent said food articles from spilling when said lid member 14 is coupled to said interior bowl member 12. Said lid member 14 includes a hook portion 40 extending downwardly from a perimeter edge of said lid member 14, said hook portion selectively extending over a peripheral edge 20 of said interior bowl member 12 to secure said lid member 14 to said interior bowl member 12. Said lid member 14 has an aperture such that said food articles may be retrieved from said interior bowl member 12 while said lid

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member 14 is coupled to said interior bowl member 12. There is further disclosed a cover assembly 44 and 46 coupled to said lid member 14, said cover assembly 44 and 46 being selectively positioned over said aperture of said lid member 14 such that said cover assembly is adapted for selectively limiting the access to said food articles in said interior bowl member 12 when said cover assembly 44 and 46 is positioned over said aperture. Bazemore et al. fail to disclose an exterior bowl member containing an interior space for insulating said cooling member, said interior space containing an insulating fluid, and said insulating fluid being substantially an inert gas. Devlin teaches a similar serving container with an interior bowl member 12 and external bowl member 14 and a cooling member 18 located there between. Said external bowl member 14 taught by Devlin further includes a peripheral wall 36 that defines an insulating interior space 42 in which is an insulating fluid, the insulating fluid being air, an inert gas. It would have been obvious to one of ordinary skill in the art to modify the container disclosed by Bazemore et al. to include an external bowl member having an insulating interior space as taught by Devlin in order to insulate the enclosed cooling member and prevent heat transfer with the ambient environment, thus allowing the cooling member to stay cold longer. Bazemore et al. also does not disclose that said lip member 30 on said exterior bowl member 16 extends inwardly from said exterior bowl member 16. Slaughter teaches a related container with an external bowl member 11, an internal bowl member 10, and a gelatinous cooling member 30 located there between. Slaughter teaches that said external bowl member 11 has a lip member 21 that extends inwardly from a top edge of said external bowl member 11 that is received by an indentation defined by 22

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and 23 located on a peripheral edge of said internal bowl member 10 to selectively secure said interior bowl member 10 to said external bowl member 11. It would have been obvious to one of ordinary skill in the art to modify the lip member disclosed by Bazemore et al. to extend inwardly as taught by Slaughter in order to provide an alternative means of securing said internal and external bowl members. Bazemore et al. furthermore do not disclose that said cooling member is comprised of a perimeter wall that defines a plurality of compartments, including wall compartments arranged radially around a base compartment, each containing a gelatinous compound adapted for freezing. Spitler teaches a flexible thermal wrap that is used as a cooling member in a cooling jacket consisting of a perimeter wall that defines a plurality of compartments, including wall compartments 60 radially positioned around a base compartment 60B, each compartment containing a chemical refrigerant that may be a gelatinous compound adapted for being frozen and used for chilling. It would have been obvious to one of ordinary skill in the art to modify the container disclosed by Bazemore et al. to include a cooling member as taught by Spitler such that the walls and base of said cooling member are nested against the walls and base of said exterior bowl member respectively, so that there is the added convenience in having an easily removable, self-contained cooling member.

10. Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bazemore et al. in view of Devlin, Slaughter, and Spitler as applied to claims 14-18 above, and further in view of Young. The combination of Bazemore et al., Devlin, Slaughter, and Spitler demonstrated a food serving container comprised of an exterior

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bowl member, an interior bowl member, a cooling member located in between said bowl members, and a lid with an aperture and cover assembly, said lid being coupled to said interior bowl member, as already described above in regards with claims 14-18. Said combination does not show a cover assembly comprising of nested hemispherical shaped nested dome and shell members. Young teaches a lid to a container that has an aperture and a cover assembly comprising a dome member 6 and a shell member 8 being coupled to said lid member such that said dome member 6 is positioned over a portion of said aperture of said lid member, said shell member 8 being pivotally coupled to said lid member such that said shell member 8 is for selectively covering the portion of said serving aperture not covered by said dome member 6, said shell member 8 being nested with said dome member 6 to permit access to said serving aperture when said shell member 8 is pivoted with respect to said lid member. Said dome member 6 and said shell member 8 are substantially hemispherical shaped, said shell member 8 comprising a radius less than the radius of said dome member 6 such that said shell member 8 pivots under said dome member 6 when said shell member 8 is pivoted with respect to said lid member. It would have been obvious to one of ordinary skill in the art to modify the lid member in the combination of Bazemore et al., Devlin, Slaughter, and Spitler to include the cover assembly taught by Young in order to provide an alternative means for closing the aperture in said lid.

### ***Conclusion***

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard L Leung whose telephone number is 703-306-4154. The examiner can normally be reached on Mon-Fri.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise L. Esquivel can be reached on 703-308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard L Leung  
Examiner  
Art Unit 3744

rl

  
DENISE LESQUIVEL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700